

DRAFT

Governor's Blue Ribbon Water Task Force

Meeting Notes
January 26, 2005
Santa Fe, NM

Attendees: Brian Burnett, John D'Antonio, Estevan Lopez, Bill Hume, Anne Watkins, Conci Bokum, Frank Chaves, Wayne Cunningham, Kyle Harwood, Steve Hernandez, David Hughes, Debbie Hughes, Howard Hutchinson, Elmer Lincoln, G.X. McSherry, Paul Paryski, Hoyt Pattison, Elmer Salazar, Cyle Sharp, Manuel Trujillo, and Bob Vocke attended the meeting. Tanya Scott attended for Chuck Dumars.

The next meeting of the BRWTF will be February 23-24, 2005 in Santa Fe, NM.

The Task Force discussed water-related bills with John D'Antonio that have been introduced in the 2005 session (updated 2/10 list follows with OSE meeting comments).

47th Legislature - State of New Mexico - First Session, 2005

List of Bills, Capital Outlay Requests, Memorials, and Joint Memorials from the House and Senate that are related to and analyzed by the Office of the State Engineer or the Interstate Stream Commission.

Office of the State Engineer/Interstate Stream Commission	
House Bill Analysis List	
House Bill No.	Bill Name/Sponsor
	House Bill
HB 2	General Appropriation Act of 2005 - Saavedra
HB 14	Making an Appropriation to the Interstate Stream Commission for the Gallup-Navajo Pipeline Project – Begaye (OSE would like clarification – is this the State's contribution)
HB 44	Making an Appropriation to the Interstate Stream Commission to Develop a Ute Lake Master Plan – Moore (OSE would like some amendments)
HB 88	Making an Appropriation for a Pilot Program to Use Goats to Remove Salt Cedar and Non-Native Phreatophytes, to Enhance Water Supplies and to Improve Habitat for the Willow Flycatcher and the Silvery Minnow – Nuñez (OSE neutral)
HB 89	Making an Appropriation for a Statewide Non-Native Phreatophyte Removal Program – Nuñez (OSE has ET issues and wants accountability)
HB 91	Relating to Taxation; Providing a Personal Income Tax Credit and a Corporate Income Tax Credit for Agricultural Water Conservation Expenses; Providing for a Delayed Repeal – Nuñez (OSE hasn't reviewed)
HB 126	Relating to Water; Creating the Indian Water Rights Settlement Fund; Providing for Legislative Approval of Certain Indian Water Rights Settlements; Making an Appropriation – Begaye (OSE supports)
HB 153	Relating to Occupations; Changing the Powers and Duties of the Water Quality Control

	Commission and the Department of Environment Pertaining to Regulation of Utility Operators; Increasing Fees; Providing for Hearing and Appeals; Making an Appropriation – King (OSE not tracking closely)
HB 175	Making an Appropriation to Pay the Debt of the Fort Sumner Irrigation District to the Federal Bureau of Reclamation - Compos II (debt pay off)
HB 190	Making an Appropriation to the Interstate Stream Commission for a Cloud-Seeding Project in the Jemez y Sangre Regional Water Planning District – Gonzales (OSE will support, but not a high priority)
HB 192	Making an Appropriation for the Water Resources Research Institute – Nuñez (OSE supports, but was it coordinated with OSE)
HB 195	Relating to water, Providing for a Strategic Water Reserve, Providing for Additional Powers and Duties of the Interstate Stream Commission, Authorizing the Issuance of Severance Tax Bonds for the Acquisition of Water, Water Rights and Water Storage for the Strategic Water Reserve, Making an Appropriation – Stell (Governor/OSE support, but would like amendments [must purchase senior water rights])
HB 236	Making an Appropriation for the Acequia Commission – Salazar (OSE would probably support)
HB 237	Relating to Conservancy Districts; Requiring Elections within Certain Conservancy Districts to be Conducted by Mail-in Ballot – Garcia (bigger than OSE [Bill Hume tracking])
HB 240	Relating to Air Pollution; Requiring New Mexico Gasoline Stations to Install Functioning Vapor Recovery Nozzles at Gasoline Pumps; Providing a Penalty – Garcia (not OSE)
HB 271	Relating to Finance; Authorizing the New Mexico Finance Authority to Make Loans or Grants for Certain Water Projects from the Water Project Fund; Making an Appropriation; Declaring an Emergency – Crook (not discussed)
HB 285	Relating to Water; Providing for Active Resource Management and Designation of Critical Management Areas; Amending and Enacting Sections of Chapter 72 NMSA 1978 to Enable the State Engineer to Regulate Domestic Wells in Critical Management Areas – Varela (OSE tracking and has amendments)
HB 293	Relating to Water; Imposing an Application Fee and a Domestic Well Impact Fee for New Domestic Wells; Creating the Domestic Well Impact Fund; Making an Appropriation; Declaring an Emergency – Cervantes (OSE tracking)
HB 297	Making an Appropriation for Water Management Research and Education Programs by the Agricultural Experiment Station and Cooperative Extension Service – Cervantes (OSE hasn't reviewed)
HB 299	Making an Appropriation to the Utton Transboundary Resources Center at the University of New Mexico for an Office of Water Rights Ombudsman – Cervantes (OSE supports conceptually, but would rather have OSE people in the field)
HB 326	Making an Appropriation for a Comprehensive Hydro-Geologic Study of the Sacramento Mountains – Vaughn (OSE supports with amendments [coordination with OSE])
HB 346	Relating to Water; Providing for a Direct Appeal to the District Court from a State Engineer Decision – Tripp (not discussed)
HB 348	Relating to Utilities; Requiring Water Utilization Plans for Certain Electric Power

	Generating Plants; Prescribing Approval Procedures; Changing Ruling Deadlines and the Size of Plants Subject to Location Approval – Tripp (OSE tracking)
HB 403	Making an Appropriation for the Water Trust Fund; Declaring an Emergency - Moore
HB 415	Relating to Water; Creating the Indian Water Rights Settlement Fund; Providing for Legislative Approval of Certain Indian Water Rights Settlements; Making an Appropriation – Begaye (not discussed)
HB 462	Relating to Water; Enacting the Water Efficient Technology Act; Imposing Water Efficiency Fees for the Diversion or Withdrawal of Public Waters of the State; Creating a Fund; Making an Appropriation – Stewart (not discussed)
HB 491	Making an Appropriation for Water Conservation and Natural Resource Restoration Technical Assistance – Cervantes (not discussed)
HB 500	Relating to Water; Providing for Active Resource Management and Designation of Critical Management Areas; Amending and Enacting Sections of Chapter 72 NMSA 1978 to Enable the State Engineer to Regulate Domestic Wells in Critical Management Areas; Declaring an Emergency – King (not discussed)
HB 587	Relating to Water; Amending the Water Project Finance Act to Provide for Membership to the Water Trust Board and to Provide that Twenty-Five Percent of the Water Project Fund be Dedicated to Watershed Restoration – Stell (not discussed)
HB 589	Making an Appropriation for a Hydrographic Survey and Adjudication of the Animas Valley Watershed; Declaring an Emergency – Herrera (not discussed)
HB 590	Relating to Water; Prohibiting the State Engineer from Stopping the Use of Certain Domestic Use Wells – Youngberg (not discussed)
HB 623	Making an Appropriation to Acquire Water Rights for the Carnuel Mutual Domestic Water and Wastewater Consumers Association in Bernalillo County – McCoy (not discussed)
HB 661	Relating to Special Districts; Providing Authority to the Soil and Water Conservation Commission to Establish a Watershed Coordinator Position – Tripp (not discussed)
HB 711	Relating to Water; Providing that Water Quality Commission Regulations and Standards for Surface Water are No More Stringent than Required by Federal Law - Campos II (not discussed)
HB 722	Relating to New Mexico Communities; Enacting the New Mexico Healthy Communities Act; Requiring Notice and Community Impact Reports Prior to Certain Actions by Certain Regulatory Agencies; Providing Criteria for Making Certain Decisions by Certain Regulatory Agencies; Providing for Citizen Enforcement – Jujan (not discussed)
HB 765	Making an Appropriation to Implement the Estancia Regional Water Plan – King (not discussed)
HB 782	Making an Appropriation for a Permanent Water Harvesting Demonstration Project on the Santa Fe Railyard Park and Plaza – Wirth (not discussed)
HB 817	Making an Appropriation to the Interstate Stream Commission to Map the Acequia Junta y Cienaga – Rodella (not discussed)
HB 838	Relating to Sanitary Projects; Amending the Sanitary Projects Act with Regard to Associations; Amending, Repealing and Enacting Sections of the NMSA 1978 Relating to Funding Sanitary Projects; Declaring an Emergency – Nuñez (not discussed)

	House Joint Memorial
HJM 1	Requesting the New Mexico Legislative Council to Direct the Appropriate Interim Committee to Examine the Appropriate Method to Enable Local Governments Throughout the State to Operate and Administer Water Utility Authorities - Nuñez
HJM 7	Requesting Congress to Support the Navajo Agricultural Products Industry and to Appropriate Adequate Funds to Complete the Construction and to Operate and Maintain the Navajo Indian Irrigation Project - Begaye
HJM 16	Urging Congress to Appropriate Funds for Testing Radioactivity Levels in Certain New Mexico Homes - Harrison
HJM 33	Requesting Protection of Aboriginal Senior Water Rights of the Native American Nations, Pueblos and Tribes - Madalena
HJM 34	Requesting the Interstate Stream Commission to Begin Planning to Realize the Full Benefits the State of New Mexico Received in the Arizona Water Settlements Act - Stewart
HJM 44	Requesting Certain State Agencies to Study Water Conservation and Water Infrastructure Financing and Administration to Develop a Strategic Water Conservation and Infrastructure Investment Plan to Secure a Sustainable Water Supply for New Mexico's Urban, Rural, Agricultural, Industrial, Recreational and Environmental Water Needs - Lujan
HJM 45	To Urge Establishment of Minimum Recreational Pools of Water for Lakes and Reservoirs Within New Mexico State Parks - Rodella
HJM 48	Requesting the State Engineer to Conduct a Comprehensive Statewide Assessment of New Mexico's Water Obligations, Needs and Resources - Anderson
HJM 49	Requesting that the San Juan-Chama Project Water Contract Between the City of Espanola, the City and County of Santa Fe and the United States Department of the Interior be Changed to a Repayment Perpetual Agreement as an Integral Part of Addressing a Multicounty Region - Lujan

HB: House Bill HC: House Capital Outlay Request

HJM: House Joint Memorial HM: House Memorial

HJR: House Joint Resolution

Office of the State Engineer/Interstate Stream Commission	
Senate Bill Analysis List	
Senate Bill No.	Bill Name/Sponsor
	Senate Bill
SB 6	Capital Projects Act, Compos (not discussed)
SB 100	Making an Appropriation for Water Management Research and Education Programs by the Agricultural Experiment Station and Cooperative Extension Service, Papen (OSE needs to be involved)
SB 102	Relating to Water; Providing Procedures for Prosecuting Violations of Laws Concerning the Misuse of Water and Interference with Easements for or Access to Certain Irrigation Ditches, Creating and Increasing Penalties; Providing for Civil Remedies, Cisneros (no comment)

SB 113	Making an Appropriation for the Water Resources Research Institute, Papen (no comment)
SB 117	Relating to Higher Education; Creating the Water Resources Research Institute, Papen (OSE supports)
SB 120	Relating to Water; Providing for Active Resource Management and Designation of Critical Management Areas; Amending and Enacting Sections of Chapter 72 NMSA 1978 to Enable the State Engineer to Regulate Domestic Wells in Critical Management Areas, Cisneros (OSE tracking and has amendments, Governor wants OSE ability to deny)
SB 123	Relating to Water; Providing for a Strategic Water Reserve; Providing for Additional Powers and Duties of the Interstate Stream Commission; Authorizing the Issuance of Severance Tax Bonds for the Acquisition of Water, Water Rights and Water Storage for the Strategic Water Reserve; Making an Appropriation, Cisneros (OSE supports)
SB 132	Relating to Water; Changing Standards for Prioritization of Water Projects by the Water Trust Board; Providing for a Designee to the Water Trust Board; Removing the Drought Strike Team from Water Trust Board Duties; Providing for Appropriations and Donations to the Water Project Fund; Reconciling Multiple Amendments to the Same Section of Law, Harden (WTB endorses changes)
SB 139	Making an Appropriation for the Water Trust Fund; Declaring an Emergency – Snyder (not discussed)
SB 172	Relating to Water; Creating the Indian Water Rights Settlement Fund; Providing for Legislative Approval of Certain Indian Water Rights Settlements; Making an Appropriation, Cisneros (no comment)
SB 189	Making an Appropriation for a Statewide Aquifer Mapping Project to be Conducted by the Bureau of Geology and Mineral Resources at New Mexico Institute of Mining and Technology, Cisneros (Governor endorses)
SB 239	Relating to Water; Amending the Water Project Finance Act to Provide for Membership to the Water Trust Board and to Provide that Twenty-Five Percent of the Water Project Fund be Dedicated to Watershed Restoration, Campos (conflicts with SB 132)
SB 293	Relating to Occupations; Changing the Powers and Duties of the Water Quality Control Commission and the Department of Environment Pertaining to Regulation of Utility Operators; Increasing Fees; Providing for Hearings and Appeals; Making an Appropriation – Snyder (OSE not tracking closely)
SB 396	Making an Appropriation for Soil and Water Conservation Districts – Altamirano (not discussed)
SB 417	Relating to the Conservation of Natural Resources; Enacting the Sustainable Development Testing Site Act; Providing for the Approval of Areas to be Used for Non-Industrial Research and Testing Designed to Reduce the Consumption of and Dependence on Natural Resources; Providing that Certain Research Activities Within an Approved Area are Exempt from Specified Laws, Ordinances and Rules – Cisneros (not discussed)
SB 444	Relating to Water; Enacting the Water Efficient Technology Act; Imposing Water Efficiency Fees for the Diversion or Withdrawal of Public Waters of the State; Creating a Fund; Making an Appropriation – Robinson (not discussed)
SB 451	Relating to Water; Providing for Active Resource Management and Designation of Critical Management Areas; Amending and Enacting Sections of Chapter 72 NMSA

	1978 to Enable the State Engineer to Regulate Domestic Wells in Critical Management Areas; Declaring an Emergency – Smith (not discussed)
SB 583	Relating to Water; Providing that Water Quality Commission Regulations and Standards for Surface Water are No More Stringent than Required by Federal Law – Ingle (not discussed)
SB 668	Relating to Environmental Regulation; Providing that Certain Rules Adopted Pursuant to the Hazardous Waste Act May be at Least as Stringent as Those of the Federal Government – Sanchez (not discussed)
SB 690	Relating to Special Districts; Providing Authority to the Soil and Water Conservation Commission to Establish a Watershed Coordinator Position – Griego (not discussed)
SB 693	Making an Appropriation to Improve Math and Science Skills of Disadvantaged Pre-College Students for Entry into Science and Engineering Majors at New Mexico State University – Griego (not discussed)
SB 711	Relating to State Rules; Providing that Certain Rules are Not Effective Until the Appropriate Legislation Committee Holds a Public Hearing on the Rule – Sharer (not discussed)
SB 777	Relating to Oil and Gas; Amending and Enacting Sections of the Oil and Gas Act and Amending the Geothermal Resources Conservation Act; Providing for Permits for the Discharge or Potential Discharge of Water Contaminants; Providing for Appeal from Decisions of the Oil Conservation Commission; Establishing Certain Fines; Amending, Repealing and Enacting Sections of the NMSA 1978; Making an Appropriation - Ortiz y Pino (not discussed)
SB 793	Relating to Water; Authorizing Irrigation Districts Created and Operating Pursuant to Chapter 73, Article 9 NMSA 1978 to Establish Water Banks for the Temporary Reallocation of Water – Neville (not discussed)
SB 800	Relating to Water; Repealing Session Laws that Repeal the Lower Pecos River Basin Below Sumner Lake Water Bank – Beffort (not discussed)
SB 817	Relating to the Environment; Providing an Amnesty Period for Registration of Storage Tanks; Providing for Registration Without Payment of Fees or Penalties During the Amnesty Period; Declaring an Emergency – Taylor (not discussed)
SB 819	Making an Appropriation to the Interstate Stream Commission for Multi-Stakeholder Planning Efforts in Connection with the Federal Arizona Water Settlements Act – Altamirano (not discussed)
=====	Senate Memorial
SM 2	Requesting the New Mexico Congressional Delegation, The President of the United States and the Secretary of the Interior to Support Amending the Federal Endangered Species Act of 1973 to Require that Credible and Sufficient Scientific Data be Available and Reviewed Before a Federal Agency Issues Decisions Pursuant to that Act - Komadina
=====	Senate Joint Memorial
SJM 47	Requesting the State Engineer to Impose a Moratorium on Transfers of Mined Ground Waters out of Their Basins of Origin - Campos

SB: Senate Bill

SJM: Senate Joint Memorial

SM: Senate Memorial

SJR: Senate Joint Resolution

SC: Senate Capital Outlay Request

The following points were made during Task Force discussions with John:

- OSE/ISC funding is competing with other State priorities (e.g., education and health);
- The Navajo settlement is moving forward (State signatures and then Congressional approval [\$800M, but a lot of water]);
- The Arizona settlement includes 14,000 acf and \$16M;
- The Aamodt settlement doesn't have local buy-in (needs a regional system with a water source and must address the domestic well issue);
- The Taos settlement is time consuming and needs a water source for the settlement;
- The Pecos is moving forward with State purchase of land/water and an additional \$30M is needed;
- The judge has issued a show cause order as to why a New Mexico versus the United States adjudication lawsuit, filed in 1975, should not be dismissed without prejudice for failure to prosecute (the lawsuit forms the foundation for the state to seek the right to adjudicate basin water rights across the spectrum — from the Navajo tribe to the city of Farmington to power plants to San Juan Agricultural Water Users Association members);
- Active water resources management is moving forward - there are challenges (basin-specific rules and regulations for Lower Rio Grande and Lower Pecos with the San Juan Basin being somewhat delayed), but there must be a mechanism to deal with shortages (basins can come up with alternative approaches other than priority administration);
- The Estancia Basin transfer involves transfer of existing consumptive use and is not a new appropriation;
- Transfer of water from one basin to another is not illegal (there may be public welfare issues); and
- California and Arizona have regulations that provide basin of origin protections.

Conci provided the following resource for Task Force members: Protecting Water Resources with Smart Growth (www.epa.gov/smartgrowth).

The Task Force discussed its agenda for the coming year and the following points were made:

- Based on the December meeting, there is interest in water planning, governance, and financing;
- The Task Force should make recommendations to the Governor on a quarterly basis;
- OSE resource needs include adjudications, AWRM, WATERS, GIS, compact deliveries (cannot have a repeat of the Pecos situation), ESA, and NEPA;
- The Task Force must have a process for securing information, digesting information, and producing reports/recommendations;
- The State's \$4B in need includes \$2B in deferred maintenance and \$2B in new big infrastructure (doesn't include agency needs or flood control) – need to get consensus on a realistic list of projects, who pays (situations/projects vary e.g., domestic wells vs. mutual domestics vs. large regional systems), the State's role vs. local/regional roles, and funding priorities;
- Many water systems are not in compliance with the Safe Drinking Water Act;
- The State should have a plan/criteria for investing in water projects (e.g., GIFT and Capital Outlay Reform), but small systems can still go to their representatives and circumvent the State's approach and the State must also respond to emergency situations;
- Need to capture O&M costs;
- Watersheds are important;
- The Task Force needs to understand the Treaty of Guadalupe Hidalgo;
- The Task Force needs to consider the major "parameters" (boundaries) for water e.g., treaties, State Constitution, politics, physical barriers, law, issues, culture, social, water markets, education, and values;
- The Task Force could focus on SWP implementation, considering RWPs;
- The Governor's Cabinet deals with state-level policy that drives governance of water;
- The State could have a State Water Board;
- Coordinated Resource Management is occurring on-the-ground and includes the feds;
- State systems/structures for water (e.g., OSE and NMED) are fairly good;
- Water will be needed for economic development;
- Water markets are important;

- ISC convened regional water planners to develop a list of state-wide issues needing to be addressed (e.g., water markets and inter-region water transfer) and there has not been closure;
- AWRM will change the water market with the replacement plan concept;
- The “takings by juniors” issue needs to be addressed – property rights must be secure, the role of government is not to undermine; and
- State funding for purchase of water rights will influence the market.

The Task Force identified a range of topics that could be discussed at the next meeting including AWRM, water markets, infrastructure financing, OSE funding, governance, adjudication, settlements, and planning. The Force elected to focus on AWRM and water markets during its February meeting.

The Task Force tentatively set September 28-29 for a meeting in Deming, which would include the Arizona settlement and Gila, San Francisco, and Mimbres rivers.